

## ENVIRONMENTAL CODE

## GRAY COUNTY, KANSAS

## CHAPTER 1

Administrative Procedures

- SECTION 1-1.0 AUTHORITY AND POLICY
- 1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. or K.S.A. 12-3301 et. seq., as amended.
- 1-1.2 Declaration of Finding and Policy. The Commissioners find that the provision of adequate and reasonable control over environmental conditions in the county is necessary and desirable. A environmental code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt and amend a environmental code to provide current regulation of practices that affect health and safety.
- 1-1.3 Purpose. The purpose and intent of this chapter is to prescribe the administrative procedures to be followed in administering this environmental code or any amendments thereto; and to prescribe rules and regulations for controlling practices to minimize health and safety hazards.
- 1-1.4 Title. This code shall be known and referred to as the Gray County Environmental Code.
- 1-1.5 Applicability. The procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.
- 1-1.6 Effective Date. This code shall become effective June 30, 1993.
- Revised:
- SECTION 1-2.0 DEFINITIONS: The following words, terms and phrases appear in more than one chapter of this Code and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific chapters within this Code may be found in that particular chapter.
- 1-2.1 Administrative Agency means the entity authorized to implement and enforce the provisions of this code.
- 1-2.1.1 The Administrative Agency for Gray County is designated as Gray County Public Works Department.
- 1-2.2 Administrative Rules means those rules and regulations contained in chapter one of this environmental code which prescribe general procedures to be followed in the administration of the environmental code adopted by the county.
- 1-2.3 Agricultural Purposes means a purpose related to the production of livestock or crops. (K.S.A. 19-3706.)
- 1-2.4 Authorized Representative means any person who is designated by the

Administrative Agency to administer this code.

- 1-2.5 Board of County Commissioners means the Board of County Commissioners of Gray County, Kansas.
- 1-2.6 Board of Health means the Gray County Board of Health. (K.S.A. 65-201)
- 1-2.7 Code means any model or standard published compilation of rules in a book or pamphlet form which has been prepared by a technical association, a federal agency, this state or any agency thereof, municipalities of this state or any agency or instrumentality and any metropolitan thereof, or regional agency within this state and such codes may be specifically, but shall not be limited to: sewerage disposal, water supply systems solid waste management, food management, swimming pools, hot tubs and spas, mass gatherings, and tattoo and massage parlors. (K.S.A. 12-3301)
- 1-2.8 Health Officer means the \_\_\_\_\_, appointed by \_\_\_\_\_, or a duly authorized representative.
- 1-2.9 Hearing Officer means an individual, appointed by the Administrative Agency, to hear appeals from decisions made by the Health Officer relating to the enforcement and **to** administration of this code. (Local Health Department K.S.A. 19-3701.)
- 1-2.10 Person means an individual, corporation, partnership, association, state, or political subdivision thereof, federal, state agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.
- 1-2.11 Premise means any lot or tract of land and all buildings, structures, or facilities located thereon.
- 1-2.12 State Department of Health means the Kansas State Department of Health and Environment.

## SECTION

### 1-3.0 ADMINISTRATIVE POWERS AND PROCEDURES

- 1-3.1 Right of Entry. Representatives of the Administrative Agency shall have the power and authority to inspect for compliance with the County Sanitary **Environmental** Code.
- 1-3.2 PERMIT AND LICENSE.
- 1-3.2.1 APPLICATIONS FOR PERMITS AND LICENSES. Every person required by this sanitary **environmental** code to obtain a permit or license shall make application for such permit or license to the Administrative Agency.
- 1-3.2.2 Issuance of Permit or License. After receipt of an application as required by this code, the Administrative Agency shall begin such investigation as deemed necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within 30 days of such receipt. If the permit or license is denied, the Administrative Agency shall send the applicant a written notice and state the reasons for rejection.
- 1-3.2.3 Permit Nontransferable. No permit or license required by this environmental code shall be transferable, nor shall any fees required and paid therefor be refundable.
- 1-3.2.4 Permit Revocation. All permits are subject to revocation for reasons of noncompliance or misrepresentation.
- 1-3.2.5 Standard Fees. The Administrative Agency shall establish a schedule of fees sufficient to recover direct and indirect costs of

processing all permits and licenses required by the code, and said fees shall be paid into the Administrative Agency. The Administrative Agency shall not process any application for a permit or license until the required fee has been paid. (K.S.A. 19-3702.)

1-3.3 Notices, Orders, Appeals.

1-3.3.1 Notice of Violations. When the Administrative Agency determines that there has been a violation of any provision of this Code, notice of such violation shall be issued to the person responsible. The notice shall:

- (1) be in writing;
- (2) include a statement of why the notice is being issued;
- (3) allow a reasonable period of time for performance of any work required by the notice; and,
- (4) be properly served upon the owner or agent. Such notice shall be deemed properly served when a copy thereof has been sent by registered mail to the last known address of the owner or agent.

1-3.3.2 Appeal for Hearing. Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this environmental code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the Administrative Agency within ten working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The filing of the request for a hearing shall operate as a stay of the notice or order. Upon receipt of such petition, the Administrative Agency shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to show why such notice or order should be notified or withdrawn. The hearing shall be commenced no later than ten working day after the date on which the petition was filed; provided, that upon request of the petitioner, the Administrative Agency may postpone the hearing for a reasonable time beyond such ten-day period, when in the Agency's judgement the petitioner has submitted justifiable reason for such postponement.

1-3.3.3 Report of Hearing. Within ten working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the Administrative Agency. The findings shall include a recommendation that the order be sustained, modified, or withdrawn. Upon the receipt of the report of the Hearing Officer, the Administrative Agency shall consider the report and issue an order, confirming, modifying or withdrawing the notice or order, and shall notify the appellant in the same manner as is provided for in Sec. 1-3.3.1.

1-3.3.4 Emergency Orders. Whenever the Administrative Agency finds that an emergency exists which requires immediate action to protect the public, the Administrative Agency may issue an order reciting the existence of such an emergency, specifying action be taken to meet the emergency. Such an order shall be effective immediately. Any

person to whom such an order is directed shall comply therewith immediately.

1-3.4 Records.

1-3.4.1 Permit Applications. Applications for permits or licenses required by this code shall be filed with the Administrative Agency.

1-3.4.2 Official Actions. A written record of all official actions taken on applications for permit and licenses required by this environmental code shall be kept on file with the Administrative Agency.

1-3.4.3 Proceedings of Hearings. The proceedings of all hearings, including findings and decisions of the Hearing Officer, and a copy of every notice and order related thereto shall be filed with the Administrative Agency. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.

1-3.5 GENERAL PROVISIONS

1-3.5.1 Enforcement Procedure. The County Attorney or County Counselor shall enforce the provisions of this code and other environmental codes adopted by the county and is hereby authorized and directed to file appropriate actions for such enforcement, upon request of the Administrative Agency. Actions of injunction, mandamus, and quo warranto may be utilized for enforcement of these codes and shall be governed by the provisions of the Kansas Code of Civil Procedure.

1-3.5.2 Penalties. In addition to, and independently of, the enforcement procedures provided in section 1- 3.5.1 herein, any violation of any provision of a environmental code shall be deemed to be a misdemeanor and punishable by a fine not to exceed two hundred dollars (\$200) for each offense. Each day's violation shall constitute a separate offense. K.S.A. 19-3707.

1-3.5.3 Disclaimer of Liability. This code and other environmental codes adopted shall not be construed or interpreted as imposing upon the county or its officials or employees (1) any liability or responsibility for damages to any property, or (2) any warranty that any system, installation or portion thereof that is constructed or repaired under permits and inspections required by code will function properly.

1-3.5.4 Separability. If any clause, sentence, paragraph, section or subsection of this code shall for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgement shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof so found unconstitutional and invalid. (K.S.A. 19-3708)

## ENVIRONMENTAL CODE

## GRAY COUNTY, KANSAS

## CHAPTER 2

ON-SITE WASTEWATER MANAGEMENT

- SECTION 2-1.0 PURPOSE AND INTENT.  
Sewage is a potential source of disease and water pollution and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of Gray County.
- SECTION 2-2.0 APPLICABILITY. The provisions of this chapter shall apply to all unincorporated areas located in Gray County, Kansas.
- SECTION 2-3.0 DEFINITIONS.
- 2-3.1 Beneficial use means the use of water for any of the following purposes: agricultural water supply; aquatic life; somestic water supply; groundwater recharge; industrial water supply; recreation.
- 2-3.2 Nuisance means conditions or activities on properities both private and public, which have or threaten to have a detrimental effect on the environment health of the public or its members.
- 2-3.3 Private Wastewater System Means any system which does not hold a National Pollutant Discharge Elimination System permit. This includes wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.
- 2-3.4 Sanitary Privy means a facility designed for the disposal of non-water carried wastes from the human body.
- 2-3.5 Sanitary Service means the pumping out and/or removal of sewage, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater disposal systems; and the transportation of such material to a point of final disposal.
- 2-3.6 Sewage means any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.
- 2-3.7 Subdivision means any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future, including streets, alleys, or other portions thereof intended to be dedicated for public use, and any redivision of lands.
- 2-3.8 Wastewater System means any system along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.

	2-3.8	<u>Vaults/Holding Tank</u> means a water-tight receptacle for the retention of sewage either before, during, or after treatment.
SECTION	2-4.0	<u>PROHIBITED PRACTICES.</u>
	2-4.1	<u>Use of Non-approved Private Systems.</u> No person shall use, or cause to be used, any private wastewater system, or sanitary privy constructed after adoption of this environmental code until it has been inspected and approved by the Administrative Agency or if it: <ol style="list-style-type: none"> <li>has been enjoined as a public health nuisance by a court of competent jurisdiction; or</li> <li>fails to comply with the provisions of this sanitation code, and written notice thereof has been given by the Administrative Agency; or</li> <li>discharges inadequately treated wastes onto the surface of the ground, or waters of the state as defined in K.S.A. 65-161 (a) or,</li> <li>causes vector breeding, produces offensive odors or any condition that is detrimental to health and comfort.</li> </ol>
	2-4.2	<u>Use of Private Wastewater Systems Within 400 Feet of Public Sewer.</u> No private wastewater system shall be constructed within 400 feet of an existing public sewer, unless the Administrative Agency finds that connection to such a sewer is not feasible and that a private wastewater system, meeting the requirements of this code, can be constructed on that property.
	2-4.2a	<u>Existing systems located within 400 Feet of a Public Sewer.</u> It is not mandatory for existing systems located within 400 ft of a public sewer to connect as long as the septic system works satisfactorily. When the system fails, connection is mandatory if flow can be by gravity.
	2-4.3	<u>Location of Private Wastewater Systems Below Full/Flood Pool.</u> No portion of a private wastewater system shall be located below the flood pool elevation of any reservoir or full pool elevation of any pond, lake, or water supply reservoir unless written approval is obtained from the appropriate Administrative Agency.
	2-4.4	<u>Location of a Private Wastewater System Within 50Feet of a Nonpublic Water Supply Well.</u> No portion of a private wastewater system shall be located less than 50* feet from a nonpublic water supply water well or a water line from a water well, unless the facility is of water tight construction. No sanitary sewer line, regardless of construction, shall be located less than 10* feet from a water well or a suction line from a water well.
	2-4.5	<u>Cesspool, Rat holes prohibited.</u> The construction of a cesspool or a Rat Hole is prohibited
	2-4.6	<u>Only Domestic sewage shall be directed to a private wastewater system.</u>
2-5.0		<u>REQUIREMENTS FOR PRIVATE SEWERAGE SYSTEMS.</u>
	2-5.1	<u>Permit.</u> No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until a permit has been issued by the Administrative Agency.
	2-5.2	<u>Maintenance.</u> All persons holding a permit for use of a private wastewater system and responsible for its operation shall operate and

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maintain the system in conformity with standard operation practices.

- 2-5.3 Suitable Site. No site shall be approved if:
- a. connection to an approved public sewerage system is feasible or the site violates the provisions of Section 2-4.0 of this code;
  - b. the site contains less than two acres of land exclusive of roads, streets, or other public rights-of-way or easements, provided this area requirement may be reduced to one acre if the property is served by an approved public water supply; and,
  - c. the soil, topography, and geology meet the requirements set forth in Section 2-6.0.

- 2-5.4 Proper Maintenance and Operation. All private wastewater systems shall be maintained in good working condition. Whenever the Administrative Agency shall find any private wastewater system malfunctioning, the owner and/or user shall be ordered to correct the condition.

- 2-5.5 Waiver. The Administrative Agency shall have the authority to grant exceptions, to this chapter when reliable information is provided which can justify the exception without compromising the environment.

- SECTION 2-6.0 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY AND GEOLOGY. No private wastewater system which is dependent upon soil absorption for the disposal of wastewater, shall be constructed on any lot of any size unless minimum standards for percolation rates, soil profiles and depth to impervious rock or groundwater are met.

- SECTION 2-7.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT  
After adoption of this code no person shall develop any subdivision until the plans and specifications for on-site wastewater management have been approved by the Administrative Agency.

## SANITARY ENVIRONMENTAL CODE

## GRAY COUNTY, KANSAS

## CHAPTER 3

Non-public Water Supplies

- SECTION 3-1.0 PURPOSE AND INTENT.  
The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of potable non-public water supplies in Gray County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.
- SECTION 3-2.0 APPLICABILITY. The provisions of this chapter shall apply to all unincorporated areas located in Gray County, Kansas.
- SECTION 3-3.0 DEFINITIONS.
- 3-3.1 Domestic purpose means water used for drinking, culinary, and ablutionary purposes.
- 3-3.2 Potable water means water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming with the latest drinking water standards.
- 3-3.3 Pump installer Means any contractor, firm, partnership, association or corporation who shall install pumps, treat or otherwise service any water well or any system directly connected to a water well, such as the distribution system, to the first connection up to and including the water pressure tank.
- 3-3.4 Domestic uses. means the use of water by any persons or family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, or for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns.
- 3-3.5 Non-public Water Supply means all water supplies not meeting the definition of Public Water Supply.
- 3-3.6 Public Water Supply means a system that has at least ten service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year (K.S.A. 65-162a).
- 3-3.7 Abandoned Water Well means a water well determined by the Administrative Agency to be a well:
- (1) in which the use has been permanently discontinued;
  - (2) in which pumping equipment has been permanently removed;
  - (3) which is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer or both;
  - (4) which poses potential health or safety hazards; or
  - (5) which is in such a condition it cannot be placed in active or inactive status.
- 3-3.8 Water well contractor Means any individual, firm,



partnership, association, or corporation who shall construct, reconstruct or treat a water well the term shall not include:

- (1) An individual constructing, reconstructing or treating a water well located on land owned by the individual when the well is used by the individual for farming, ranching, or agricultural purposes or for domestic purposes at the individuals place of abode.
- (2) an individual who performs labor or services for a licensed water well contractor at the contractor's direction and under the contractors supervision.

SECTION	3-4.0	<u>REQUIREMENTS FOR NON-PUBLIC WATER SUPPLIES.</u>
	3-4.1	<u>Permit.</u> No person shall develop any water supply subject to regulations of this code until a permit has been obtained from the Administrative Agency.
SECTION	3-5.0	<u>MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES.</u>
	3-5.1	<u>Location.</u> All wells used as sources of water for nonpublic water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown in Table I. Such distances may be increased by the Administrative Agency to provide assurance that the well will not be contaminated.

TABLE I

<u>AREA</u>	<u>Minimum Separation*</u>	<u>Recommended Separation</u>
Subsurface absorption field for septic tank effluent . . . . .	50 ft.	100 ft
Pit privy . . . . .	50 ft.	100 ft
Septic tank . . . . .	50 ft.	100 ft
Barnyards, stables, manure piles animalpens, etc. . . . .	50 ft.	100 ft
Streams, lakes and ponds. . . . .	25 ft.	50 ft
Sewer lines, not constructed of cast iron or other equally tight construction.....	50 ft.	100 ft
Sewer lines constructed of cast iron or other equally tight construction.....	10 ft.	10 ft

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- 3-5.2 Construction. The enforcement of this section of the Environmental Code shall be regulated in accordance with K.A.R. 28-30-1 through 28-30-10 et seq. as amended. Recommended standards for design, construction and location; and practices consistent with current

approved technology shall be followed.

3-5.3 Well contractors. All well contractors must be licensed in accordance with K.A.R. 28-30-3 et. seq. as amended.

SECTION 3-6.0 INSPECTIONS

3-6.1 Inspection of new or existing facilities will be conducted as required by the Administrative Agency.

SECTION 3-7.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT

After adoption of this code no person shall develop any subdivision until the Gray County Subdivision Regulations have been met and the plans and specifications for water supply provision and/or protection have been approved by the Administrative Agency.